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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	No. CR 09-00694- RMW
Plaintiff,	)	
v.	)	STIPULATION AND [xxxxxxxxxxxxx]
	)	ORDER EXCLUDING TIME
BENJAMIN STEPHEN BALTAZAR	)	
Defendant.	)	SAN JOSE VENUE

On December 3, 2009 s stipulation (attached) was entered and filed detailing the history of this case and seeking to continue the case and exclude time under the Speedy Trial Act from July 30, 2009 until December 14, 2009 or any other date set by the court for the next status. However, when the parties appeared on December 14, the case had not been calendared. The parties hereby request that the case be calendared for January 11, 2010, at 9:00 a.m., when there is a likelihood the matter will resolve via plea.

The parties further agree and stipulate that exclusions of time from July 30, 2009 until January 11, 2010 is appropriate based on the reasons detailed in the attached Stipulation of

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December 3, 2009, which go to defendant's need for continuity of counsel and effective preparation of counsel.

SO STIPULATED:

JOSEPH R. RUSSONIELLO  
United States Attorney

DATED: 12/22/09

/s/  
THOMAS M. O'CONNELL  
Assistant United States Attorney

DATED: 12/22/09

/s/  
MICHAEL ARMSTRONG, Esq.  
Counsel for BALTAZAR

Accordingly, for good cause shown, the Court HEREBY ORDERS that time be excluded under the Speedy Trial Act from July 30, 2009 until January 11, 2010. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

SO ORDERED.

DATED: 12/23/09

  
RONALD M. WHYTE  
United States District Judge